

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITES STATES OF AMERICA,

-against-

MICHAEL BINDAY, JAMES KEVIN
KERGIL, and MARK RESNICK,

Defendants.

Criminal Action No. 12-cr-152 (CM)

Hon. Colleen McMahon

ECF Case

Oral Argument Requested

**NOTICE OF DEFENDANT MICHAEL
BINDAY'S MOTION PURSUANT TO RULE 33
OF THE FEDERAL RULES OF CRIMINAL
PROCEDURE**

PLEASE TAKE NOTICE that, on a date and time to be set by the Court, upon the annexed affirmation of Jeffrey Koslowsky, dated October 6, 2016, the exhibits annexed thereto, the supporting memorandum of law, and upon all the pleadings and proceedings heretofore had herein, Defendant Michael Binday, by and through his attorneys, Arent Fox LLP and Boersch Shapiro LLP, will move before the Hon. Colleen McMahon, Chief U.S.D.J., in Courtroom 24A at the Courthouse located at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, for an order pursuant to Federal Rules of Criminal Procedure Rule 33 granting a new trial and authorization to take additional limited discovery based on the discovery of new evidence that was not available to Defendants at the time of trial.

PLEASE TAKE FURTHER NOTICE that Michael Binday requests oral argument with respect to its motion for a new trial and limited discovery.

Dated: New York, New York
October 6, 2016

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